

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2020

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP.(PD).No.3379 of 2014

and

MP.No.1 of 2014

N.Sampooranam

...Petitioner/
Plaintiff

Vs.

D.Munuswamy (Died)

P.Jayaraman (Died)

1.E.Dilli Bhaskar

2.M.Murugaiyan

3.R.Velankanni

4.P.Selvi

5.Devika

6.Sekar

7.Sankar

...Respondents/
Defendants

[Respondents 6 & 7 are minors and represented by their mother Devika]

PRAYER: This Civil Revision Petition has been filed under Article 227 of the Constitution of India to set aside the fair and decreetal order of the Lower Court, dated 13.06.2014 passed in I.A.No.889 of 2013 in O.S.No.28 of 2003, by the learned District Munsif at Thiruvallur.

For Petitioner : No appearance

For Respondents: No appearance

ORDER

This Civil Revision Petition has been filed against the order passed by the learned District Munsif at Thiruvallur, in I.A.No.889 of 2013 in O.S.No.28 of 2003, dated 13.06.2014.

2 The plaintiff in the suit O.S.No.28 of 2003 is the revision petitioner herein.

3 Brief facts of the case are as follows:

(i) The revision petitioner/plaintiff has filed a suit in O.S.No.28 of 2003, before the learned District Munsif, Tiruvellore, under Order VII Rule 1 of CPC, seeking for permanent injunction against the respondents herein/defendants. The written statement was filed in the suit and the suit was listed for Trial on that day. As the plaintiff has not present, the suit was dismissed for default on 03.01.2011.

(ii) Subsequently, revision petitioner/plaintiff has filed an application to restore the suit and the same was allowed and posted

for trial and again, she has not appeared even after several adjournments. Hence, for the second time, the suit was dismissed for default on 02.11.2012. Thereafter, she has filed a petition for restoring the suit and again it was restored.

(iii) After 11 years, she has filed an application in I.A.No.889 of 2013, before the learned District Munsif, Tiruvallur, to amend the plaint; to include various pleadings and the said application was dismissed on 13.06.2014. As against the same, the revision petitioner/plaintiff has preferred this Civil Revision Petition before this Court.

4 Today (12.02.2020), when the matter was called, none appeared on behalf of both the parties.

5 Perused the materials available on record.

6 After going through the proposed amendment, this Court finds that the proposed amendment is to the effect that one Arumugham (late) and his brother Ekambaram owned a property in old Survey No.139, New Survey No.139 of 2015 at 89, Perumalpattu Village, consisting of 36 cents land. As per the oral

agreement took place among them, which was drafted by one Murugesan of their village, about 10 cents of land was given to the revision petitioner and about 8 cents of land was given to Late Nayagammal. The said Nayagammal has sold her share to one Dilli Bhaskar/third defendant herein, for the consideration of Rs.8,500/- on 21.05.1992. The mistake of the revision petitioner's previous counsel on putting the averments without mentioning her plea that late Smt.Nayagammal sold her share to one Dili Bhaskar/third defendant herein, for the consideration of Rs.8,500/- on 21.05.1992, she should not suffer her rights of getting her share from her father's property.

7 However, the basic structure of the original plaint appears to be benefit altered, taking note of the fact that, though, several adjournments have been given, the suit was dismissed for default for second time and after the suit was restored at the second time, she has filed the application in I.A.No.889 of 2013, for amendment of the plaint, as stated supra. If these averments have been taking into account, it appears from the structure of the suit and hence the trial Court has rightly dismissed the case and the same does not warrant any interference by this Case.

8 In the result, the Civil Revision Petition stands dismissed and the order passed by the learned District Munsif at Thiruvallur in I.A.No.889 of 2013 in O.S.No.28 of 2003, dated 13.06.2014, is hereby confirmed. No costs. Consequently, connected Miscellaneous Petition is closed.

12.02.2020

dua
Speaking Order:Yes/No

To
The District Munsif, Thiruvallur.

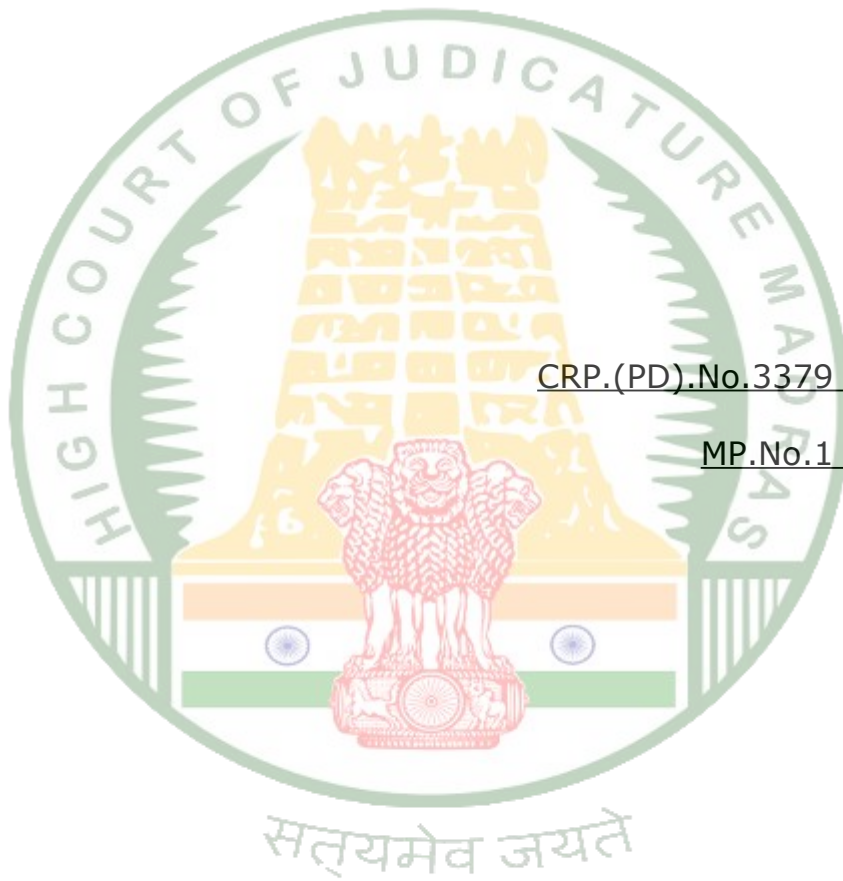


WEB COPY

CRP.(PD).No.3379 of 2014

RMT.TEEKAA RAMAN., J.

dua



CRP.(PD).No.3379 of 2014
and
MP.No.1 of 2014

WEB COPY

12.02.2020